

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 09-10682-RWZ

JAMES B. CROOK

v.

HAWK SCALLOP CO., INC.,

MEMORANDUM OF DECISION

August 30, 2011

ZOBEL, D.J.

Pending before the court are several post-verdict motions in this case. I address the pending motions seriatim below.

1. Defendant's Motion to Alter Judgment or Amend the Judgment or for Remittitur of the Jury Award (Docket # 123)

It is clear from the testimony at trial, including plaintiff's own testimony, that the plaintiff was negligent in two respects. First, he saw oil on the floor of the vessel and tried to mop it up by using his foot and paper towels as an ad hoc mop. He neglected to wipe the oil off his shoe before walking elsewhere. Second, he attempted to traverse the area containing oil while holding a coffee cup and not holding on to any fixtures in a manner reasonably calculated to ensure safety, even if indeed, the oil was everywhere.

I deem the amount of the contributory negligence to be 50% and thus remit one half of the amount of the jury verdict (\$1.65 million). Alternatively, plaintiff is entitled to a new trial on the issue of contributory negligence.

2. Defendant's Motion for a New Trial Based on the Improper Inclusion of Medical Expert Testimony (Docket # 112)

DENIED.

3. **Defendant's Motion for New Trial Based on a Disguised Award of Punitive Damages (Docket # 114)**

DENIED.

4. **Defendant's Renewed Motion for Judgment as a Matter of Law on Count I [Jones Act Negligence] of Plaintiff's Amended Complaint (Docket # 116)**

DENIED.

5. **Defendant's Motion for Extension of Time to Extend Deadline to File a Motion For a New Trial Based on the Review of the Notebook (Docket # 118)**

DENIED as MOOT.

6. **Defendant's Motion for Judgment as a Matter of Law on Causation (Docket # 119)**

DENIED.

7. **Defendant's Renewed Motion for Judgment as a Matter of Law on Count II [Unseaworthiness] of Plaintiff's Amended Complaint (Docket # 121)**

DENIED.

8. **Defendant's Motion for New Trial Based Upon the Improper Admission of Exhibit No. 34 As Evidence (Docket # 125)**

DENIED.

9. **Defendant's Motion for New Trial Based Upon Inflated Calculation of Damages (Docket # 127)**

DENIED.

10. **Defendant's Motion to Further Extend the Deadline to File a Motion For a New Trial Based on the Review of the Notebook (Docket # 150)**

DENIED as MOOT.

August 30, 2011

DATE

/s/Rya W. Zobel

RYA W. ZOBEL

UNITED STATES DISTRICT JUDGE